

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:00 CR 756

-vs-

O R D E R

TERRENCE H. CHATMAN,

Defendant.

KATZ, J.

Defendant, Terrence H. Chatman, has filed a motion under 18 U.S.C. § 3582(c)(2) to modify his sentence. He raises a single issue: whether Amendment 9 to the U. S. Sentencing Guideline, which became effective on November 1, 2007, is retroactively applicable to his sentence. If that Amendment is applicable to his sentence, which was previously imposed on March 12, 2002, it would have the effect of lowering the sentencing guideline range for certain categories of offenses, including cocaine base (crack) for which Chatman was sentenced.

The Government points out what is generally known, retroactivity is specifically addressed in the Guidelines and is not applicable to those situations not listed under Guideline § 1B1.10(c). In the case of the Amendment which would impact this Defendant, a hearing was scheduled in Washington, D. C. for November 13, 2007 before the United States Sentencing Commission. It is unknown how long it will take that Commission to issue its decision as it applies to this case.

Therefore, Chatman's motion pursuant to 18 U.S.C. § 3582(c) is premature as the amended Guideline has not been given retroactive application by the Sentencing Commission as of this date. Rather than dismiss the within motion without prejudice, the Court will hold this motion in

abeyance until such time as the Sentencing Commission's decision on retroactivity has been made public.

IT IS SO ORDERED.

s/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE